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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/494,198	01/28/2000	James P. Mitchell	00CR064/KE	3140

7590 03/08/2004

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EXAMINER
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TRINH, SONNY

ART UNIT	PAPER NUMBER
2685	8

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/494,198

Applicant(s)

MITCHELL, JAMES P.

Examiner

Sonny TRINH

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-28 is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. **Claims 1-2, 4-9, 11-14, 16-17** are rejected under 35 U.S.C. 102(e) as being anticipated by Hiatt ("Hiatt"; Patent No. 6,477,152).

Consider **claim 1**. Hiatt teaches the apparatus and method for data communications for a mobile platform (figures 3-5, 7, detailed descriptions, abstract),

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comprising a very low range (column 9 lines 28-31, "infrared signals") broadcast receiver located on the mobile platform (figure 5, element 506), and

a computer network (figure 5, router 308, LAN 304 and user interface 302) including at least one terminal on the mobile platform (columns 4-5, specifically lines 22-31 of column 5), the terminal providing Internet access through the direct broadcast receiver (column 1 lines 40-57, column 2 lines 59-67).

Regarding **claim 8**, this claim includes all the limitations of claim 1 and further specifies "a distance of less than a few meters". Since Hiatt discloses that the communication between the ground wireless LAN network and the aircraft can be optical link such as infra red as mentioned above, and since infra red signals are well known and only used for short range communications, claim 8 is similarly rejected.

Regarding **claims 2 and 9**, Hiatt discloses that the Internet access is interactive access for providing commands (column 3 lines 4-15).

Regarding **claims 4 and 11**, Hiatt further discloses that the mobile platform is a boat (column 2, specifically lines 55-58).

Regarding **claims 5 and 12**, Hiatt further discloses that the mobile platform is an automobile (column 2, specifically lines 55-58).

Regarding **claims 6 and 13**, Hiatt further discloses that the mobile platform is a train (column 2, specifically lines 55-58).

Regarding **claims 7 and 14**, Hiatt further discloses that the mobile platform is an aircraft (column 2, specifically lines 55-58, figures 3-5).

Regarding **claims 16-17**, Hiatt further discloses that the commands are forwarded to an Internet service provider and the Internet service provider responds to the commands via the direct broadcast receiver (column 1 lines 40-58).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 3, 10 and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiatt ("Hiatt"; Patent No. 6,477,152) in view of LaRocca et al. ("LaRocca "; Patent No. 6,314,572).

Regarding **claims 3 and 10**. Hiatt discloses the invention including the internet connection via a satellite transmission (figures 3-5) but does not explicitly disclose that the communication system includes a back channel transmitter. In an analogous art, LaRocca teaches a method and apparatus for providing subscription on demand services for an interactive information distribution system. LaRocca further discloses that the communication system includes a back channel transmitter (figure 2, block 208, column 6 line 57 to column 7 line 65).

Since the system of Hiatt is about an onboard entertainment system with user interactive control; and since LaRocca is also deals with an interactive information

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distribution system, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, within the interactive onboard entertainment system of Hiett, the back channel transmitter, as taught by LaRocca in order for a user to interactively send control command(s) to the system to obtain the desired information such as which program (channel) to watch.

Regarding **claim 15**, since the system of Hiett is about an onboard entertainment system with user interactive control using the internet connection from the mobile platform to a terrestrial receiver (figures 3-5 of Hiett); and since LaRocca also deals with an interactive information distribution system including and the back channel transmitter (figure 2 of LaRocca) for the interactive commands. It would have been to obvious to use the interactive system of Hiett to send commands to the internet via the terrestrial receiver utilizing the interactive system with back channel transmitter of LaRocca.

#### ***Allowable Subject Matter***

4. **Claims 18-28** are allowed following the remarks presented by Applicant filed 12/19/03 (paper number 7) pages 9-12.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

**Any response to this final action should be mailed to:**

**Box AF**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9306, (for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonny Trinh whose telephone number is (703) 305-1961. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. to 4:30 p.m. The examiner can also be reached on alternate Fridays.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 703-306-0377.

*S.T.*

**Sonny Trinh**

02/27/04



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